

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed September 9, 2005 ("*Office Action*"). Claims 1, 7-8, 14-17, 23-24, 28-29, 31, and 37-48 are pending in the Application. The Examiner rejects Claims 1, 7-8, 14-17, 23-24, 28-29, 31, and 37-48. Applicants: (1) amend Claims 1, 7, 8, 17, 23, 24, 31, and 37, (2) cancel Claims 40, 42, 44, 46, and 48, without prejudice or disclaimer, and (3) add Claims 49-53. Applicants respectfully request reconsideration and favorable action in this case.

Section 112 Rejections

The Examiner rejects Claims 40, 42, 44, and 46 under 35 U.S.C. 112, first paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have amended independent Claims 1, 8, 17, and 24 to correct typographical errors, and canceled Claims 40, 42, 44, and 46. Accordingly, Applicants respectfully request reconsideration and withdrawal of all § 112 rejections.

Claim Rejections - 35 U.S.C. § 103

The Examiner rejects Claims 1, 7-8, 14-17, 23-24, 28-29, 31, and 37-48 under 35 U.S.C. § 103(a) as unpatentable over U.S. Application Publication No. 2002/0001302 A1, by Pickett ("*Pickett*"), in view of U.S. Patent No. 6,100,882, which issued to Sharman et al. ("*Sharman*"). Applicants respectfully traverse the rejection on the grounds that *Pickett* and *Sharman*, whether taken alone or in combination, fail to teach or suggest all elements of the claims. Consider amended Claim 1, which recites:

A method for communicating voice and text associated with a packet based voice communications session comprising:
 receiving local voice information from a local participant in a packet based voice communications session having at least one remote participant;
 converting the local voice information into local text;
 generating a first stream of packets encoding the local text;
 generating a second stream of packets encoding the local voice information;
 detecting a degradation in a quality of the packet-based voice communications session;

in response to detecting the degradation in the quality of the packet-based voice communications session, communicating the first stream of packets to the remote participant using transmission control protocol (TCP); and communicating the second stream of packets to the remote participant using user datagram protocol (UDP); wherein the packet based voice communications session comprises an Internet protocol (IP) telephony communications session.

Among other aspects, the references fail to teach or suggest “in response to detecting the degradation in the quality of the packet-based voice communications session, communicating the first stream of packets to the remote participant using transmission control protocol (TCP),” as required by Claim 1, as amended.

Applicants respectfully submit that *Pickett* fails to teach or suggest these claimed aspects. The *Office Action* addresses similar claimed aspects with respect to previously presented (and now canceled) Claim 40. In particular, the *Office Action* points to *Pickett*, paragraphs 194, 105, and 363 as teaching similar claimed aspects. The *Office Action* states:

Pickett: paragraph 194, ‘processes the packetized data stream (corresponding text stream), which preferably now is in a suitable form/protocol (such as TCP/IP) for transmission to a remote computer’; paragraph 105, ‘line quality assessment (interpreted as detecting)’ ‘capability enables ... to link status indicators’, ‘the line condition ... (e.g. “speed grading” or “speed characterization” of individual lines) can be measured (detecting a degradation)’; paragraph 363, ‘enhance voice quality’, ‘dynamically adjustable jitter buffer, packet-loss correction, and noise-level matching’, which suggests detecting a degradation during the voice communication.

(*Office Action*, pg. 9). These portions of *Pickett*, however, discuss error correction techniques using signal processing. Applicants respectfully submit that the error correction techniques of *Pickett* fail to teach or suggest communicating a stream of packets in response to detecting a degradation in the quality of the packet-based voice communications session, as required by Claim 1.

Sharman fails to cure the deficiencies of *Pickett*. With respect to previously presented dependent Claim 40, the *Office Action* points to *Sharman*, column 4, lines 1-8. (*Office Action*, pg. 9). The cited portion of *Sharman* teaches that “the text recording process can be

turned on and off during the audio conference.” (col. 4, lines 1-2). Specifically, *Sharman* states:

. . . text recording process can be turned on and off during the audio conference (ie typically only a single node will turn on the text recording process). Note also that the ability to only record selected portions of the conference is useful to prevent the minutes becoming excessively long. Typically text recording might be turned on after a point has been discussed to allow the conclusions and any necessary actions arising therefrom to be minuted.

(col. 4, lines 1-8). However, *Sharman* fails to teach or suggest that a stream of packets is communicated to a remote participant “in response to detecting [a] degradation in the quality of the packet-based voice communications session,” as required by Claim 1, as amended. (emphasis added).

In fact, *Sharman* teaches away from the claimed operation, since *Sharman* teaches reasons that one might turn the text recording process on and off during the audio conference -- so as “to prevent the minutes becoming excessively long” or “to allow the conclusions and any necessary actions arising therefrom to be minuted.” (col. 4, lines 4-8). *Sharman*, thus, fails to teach or suggest “in response to detecting the degradation in the quality of the packet-based voice communications session, communicating the first stream of packets to the remote participant using transmission control protocol (TCP),” as required by Claim 1.

Applicants thus respectfully submit that *Pickett* and *Sharman*, whether taken alone or in combination, fail to teach or suggest every element of Claim 1. Likewise, independent Claims 8, 17, 24, 31, and 38 include limitations that, for substantially similar reasons, are not taught or suggested by the references. Because *Pickett* and *Sharman*, whether taken alone or in combination, fail to teach or suggest every element of independent Claims 1, 8, 17, 24, 31, and 38, Applicants respectfully request reconsideration and allowance of Claims 1, 8, 17, 24, 31, and 38, and their respective dependent claims.

New Claims

Applicants add new Claims 49-53, which include subject matter fully supported by the specification as originally filed. These new claims depend from independent claims

shown above to be allowable. Therefore, Applicants respectfully request allowance of these new claims.

Conclusion

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Although no fees are believed to be currently due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants

A handwritten signature in black ink, appearing to read 'K-P' followed by a long horizontal stroke.

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Date: December 9, 2005

Customer Number **05073**